

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JESUS AMAYA, et al.,		:	
	Plaintiffs,	:	
		:	21 Civ. 6378 (LGS)
-against-		:	
		:	<u>ORDER</u>
BUILDSMART LLC, et al.,		:	
	Defendants.	:	
-----X		:	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, by the Default Judgment Order dated February 24, 2022, Plaintiffs were granted judgment against all Defendants. Plaintiffs' request for damages was then referred to Magistrate Judge Sarah L. Cave for a post-default-judgment inquest;

WHEREAS, on January 31, 2023, Judge Cave issued a Report and Recommendation (the "Report") recommending that each individual Plaintiff, with the exception of Plaintiff Fuentes, be awarded the following -- unpaid overtime wages, liquidated damages, statutory damages and post-judgment interest -- for violations of the Fair Labor Standards Act (29 U.S.C. § 201 *et seq.*) and the New York Labor Law (§§ 190 *et seq.* and 650 *et seq.*). The Report recommends \$21,560 for Jesus Amaya; \$23,600 for Cesar Reyes; \$16,900 for Fredy Lopez Mondragon; \$16,900 for Carlos Garcia; \$24,550 for Fidencio Diaz; \$17,410 for Lucino Galindo Cano; \$20,880 for Melvin Vigil Mesia and \$24,850 for Edwin Belecela. The Report also recommends (1) an award of post-judgment interest pursuant to 28 U.S.C. § 1961, (2) no award of pre-judgment interest, attorneys' fees or costs and (3) that the Default Judgment Order be vacated as to Plaintiff Fuentes and that Fuentes's claims be dismissed without prejudice under Federal Rule of Civil Procedure 41 for failure to prosecute or, in the alternative, that Fuentes be given thirty days to show cause why his claims should not be dismissed;

WHEREAS, as stated in the Report, the deadline for any objections was fourteen days from service of the Report;

WHEREAS, on February 1, 2023, counsel for Plaintiffs filed a certificate of service stating that Defendants had been served with a copy of the Report on February 1, 2023;

WHEREAS, no objections were timely filed;

WHEREAS, in reviewing a magistrate judge's report and recommendation, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Flinton v. Saul*, No. 19 Civ. 2054, 2020 WL 5634321, at \*1 (S.D.N.Y. Sept. 21, 2020) (internal quotation marks omitted);

WHEREAS, the Court finds no clear error on the face of the record as to Judge Cave's recommendations. It is hereby

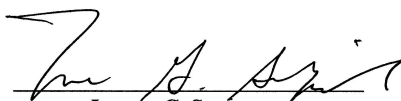
**ORDERED and ADJUDGED** that the Report is ADOPTED in full. Plaintiff Amaya is awarded \$21,560, Plaintiff Reyes is awarded \$23,600, Plaintiff Mondragon is awarded \$16,900, Plaintiff Garcia is awarded \$16,900, Plaintiff Diaz is awarded \$24,550, Plaintiff Cano is awarded \$17,410, Plaintiff Mesia is awarded \$20,880 and Plaintiff Belecera is awarded \$24,850. Plaintiffs are awarded post-judgment interest, to be calculated from the date the Clerk of Court enters judgment in this action, using the federal rate set forth in 28 U.S.C. § 1961. It is further

**ORDERED** that the Default Judgment Order at Dkt. No. 44 is vacated as to Plaintiff Fuentes, and Fuentes' claims are dismissed without prejudice under Federal Rule of Civil Procedure 41 for failure to prosecute.

The Clerk of Court is respectfully directed to enter judgment and to close this case.

Dated: June 21, 2023

New York, New York

  
LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE